IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5591 OF 2003

Nasarin A.Shaikh ....Petitioner

Versus

The State of Maharashtra and Ors. ... Respondents.

Mr. R.K. Mendadkar for the petitioner.
Mr. C.R. Sonawane, Assistant Government Pleader, for respondent Nos. 1 to 3.

CORAM: **KSHITIJ R. VYAS, C.J.** &
DR. D.Y. CHANDRACHUD, J.

DATE: **MARCH 20, 2006**.

P.C.

Rule. With the consent of the learned counsel for the parties, the matter is taken up for hearing today.

2. The petitioner in this petition has challenged the order dated 18th July, 2003, passed by the Divisional Caste Certificate Scrutiny Committee, respondent No.2, whereby the caste claim made by the petitioner of belonging to Chhaparband Tribe (Vimukta Jati) came to be invalidated.

3. The petitioner raised contention in para 8 (ii) of the petition

that she was heard by a three member Committee consisting of Mr. Nimbalkar, Member Secretary, Mr. Kamble, Member and Mr. Sanjay Shetty, Additional Commissioner of Pune Division, who presided over the said hearing as Chairman of respondent No.2 Committee on 8th July, 2003. However, the impugned order dated 18th July, 2003, has been passed by a Chairperson other than Shri Sanjay Shetty, the Chairman of the Scrutiny Committee who actually heard the petitioner, and, therefore, the impugned order is illegal and bad in law.

4. An affidavit in reply has been filed by the Member Secretary of Caste Verification Committee, Pune Division, Pune. In this reply, the above contention raised by the petitioner has not been disputed. In paragraph 9 of the reply it is stated that with reference to ground 8 (ii) of the petition, the deponent had to offer no comments. In view of this, the Chairman who presided over the Committee and heard the petitioner was expected to pass the order. Having not done so, the petition is required to be allowed only on this short ground.

5. The petition is accordingly allowed. The order passed by the Caste Scrutiny Committee on 18th July, 2003, is quashed and set aside.

We remit the matter back to the Scrutiny Committee with a direction to decide the matter afresh, after affording an opportunity of hearing to the petitioner. At this stage, a request is made on behalf of the petitioner by the learned counsel that the petitioner be supplied a copy of the Vigilance Report for which the learned Assistant Government Pleader has no objection. The Scrutiny Committee is directed to supply a copy of the Vigilance report to the petitioner. The petitioner shall appear before the Scrutiny Committee on 17th April, 2006 at 11.00 a.m. The Committee shall pass appropriate order in accordance with law within a period of three months thereafter. The ad-interim order passed by this Court shall continue till the disposal of the proceedings before the Caste Scrutiny Committee. It is, however, made clear that if the claim of the petitioner is rejected, the petitioner shall not claim any equity in her favour.

CHIEF JUSTICE

DR. D.Y. CHANDRACHUD, J.